

REMARKS

Claims 1-12 are all the claims pending in the application. By this Amendment, claims 1 and 2 have been amended to better conform them to U.S. patent practice. Applicants submit, however, that the amendments do not narrow the scope of the claims in any way, and thus, do not create any estoppel in the application of the doctrine of equivalents. Further, by this Amendment, new claims 3-12 have been added.

Claim rejections - 35 U.S.C. § 102

Claims 1 and 2 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Publication No. 2004/0160454 to Asano.

Applicants respectfully traverse the rejection and submit that Asano does not qualify as prior art under 35 U.S.C. § 102(e) with respect to the present application.

Thus, Applicants submit herewith a Declaration under 37 C.F.R. §1.131 demonstrating conception of the invention prior to the effective filing date of Asano of May 14, 2003 and diligence leading to constructive reduction of practice of the invention on May 20, 2003. In particular, Applicants submit the following:

(a) An executed Declaration under Rule 1.131, which states that the invention was conceived prior to May 14, 2003. The Declaration further demonstrates that the Applicants acted with due diligence from prior to May 14, 2003 to May 20, 2003 by filing Japanese Application No. 2003-142198 (hereinafter, the JP '198 application) on May 20, 2003 (in the Exhibit attached to the Declaration, dates not related to the issue of the diligence have been blocked off as permitted by MPEP 715.07 II);

(b) A translated copy of the pertinent part of a “Disclosure Statements of the Invention” report (Exhibit A), wherein the inventor’s date of report is September 19, 2002;

(c) A translated copy of the pertinent part of a “Request for Preparing Draft of Specification for Domestic Patent/Utility Model Application” (Exhibit B) which shows that a request by FUJIFILM to Minato Patent Firm¹ was sent on October 28, 2002, requesting the preparation and filing of a utility patent application with the Japan Patent Office;

(d) A translated copy of the pertinent part of a letter from the Minato Patent Firm to FUJIFILM forwarding a draft version of the application to FUJIFILM for review and approval on April 14, 2003 (“Forwarding of Documents”, Exhibit C); and

(e) A translated copy of the pertinent part of the “Request for filing Domestic Patent/Utility Model Application” (Exhibit D) sent from FUJIFILM to the Minato Patent Firm on May 16, 2003. In accordance with FUJIFILM’s instructions, JP‘198, from which the present application claims priority, was then diligently filed by the Minato Patent Firm in the Japanese Patent office on May 20, 2003.

The corresponding Japanese language documents are also being submitted herewith.

In view of the above, Applicants respectfully submit that the concurrently submitted Declaration under 37 C.F.R. § 1.131 and Exhibits (A)-(D) clearly provide evidence of conception of the present invention prior to May 14, 2003, which is the earliest effective filing date of Asano, together with due diligence from prior to May 14, 2003 to May 20, 2003, the filing date of priority document of the present application.

¹ Formerly Kosugi & Yamada Patent Firm

Therefore, removal of Asano as prior art is respectfully requested. Accordingly, Applicants respectfully request that the 35 U.S.C. § 102(e) rejections based on Asano be withdrawn.

New Claims

New claims 3-12 are patentable for *at least* reasons similar to those given above with respect to claims 1 and 2.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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